

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANDREW FULLMAN,
Plaintiff,

CIVIL ACTION

v.

CITY OF PHILADELPHIA, *et al.*,
Defendants.

NO. 24-0969

ORDER

AND NOW, this 30th day of January, 2025, upon consideration of Defendants' Motion to Dismiss the Second Amended Complaint for Failure to State a Claim (ECF No. 60) and Plaintiff's Response in Opposition (ECF No. 90), **IT IS HEREBY ORDERED** that Defendants' Motion is **GRANTED IN PART** and **DENIED IN PART**.

Defendants' Motion is **GRANTED** with respect to:

1. All claims against Officer Johnnie Mae Carter, which are **DISMISSED WITHOUT PREJUDICE**.
2. All claims under Section 1983 against Assistant District Attorney Barbara McDermott related to her alleged failure to disclose exculpatory evidence and use of false or perjured testimony (Counts I-VI), which are **DISMISSED WITH PREJUDICE**.
3. Fullman's malicious prosecution claim under the Fourth Amendment against Officer William Dorney (Count II), which is **DISMISSED WITHOUT PREJUDICE**.
4. Fullman's *Monell* claim against the City of Philadelphia regarding municipal policies and customs (Count VII), which is **DISMISSED WITHOUT PREJUDICE**.
5. Fullman's state law claims for negligent supervision, *respondeat superior* liability, intentional infliction of emotional distress, and negligent infliction of emotional distress against the City of Philadelphia (Counts VIII-XI), which are **DISMISSED WITH PREJUDICE**.

Defendants' Motion is **DENIED** with respect to:

1. Fullman's remaining Section 1983 claims against Officer Dorney (Counts I, II under the Fourteenth Amendment, and III-VI) and ADA McDermott (Counts I-VI insofar as they pertain to her involvement in the police investigation).
2. Fullman's *Monell* claim against the City of Philadelphia regarding single-incident liability (Count VII).
3. Fullman's state law claims against Officer Dorney and ADA McDermott (Counts VIII-XI).
4. All Section 1983 and state law claims against the John Doe Defendant.

BY THE COURT:

S/ WENDY BEETLESTONE

WENDY BEETLESTONE, J.